



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

WILLIAM S.J. FRAENKEL
Labor and Employment Law Division
phone: (212) 356-2434
fax: (212) 356-1138
email: wfraenke@law.nyc.gov

November 21, 2016

VIA E-MAIL

John S. Siffert, Esq.
Lankler Siffert & Wohl LLP
500 Fifth Ave., 34th Floor
New York, NY 10110

Re: Gulino, et al. v. Bd. of Educ.
Civil Action No. 96 Cv. 8414 (KMW)
Law Dept. No. 96-GL-000890

Dear Mr. Siffert:

Defendant hereby respectfully submits its responses to Plaintiffs first three batches of damage demands and also submits its related discovery demands.

In all instances defendant objects to the underlying methodologies used to generate the Court Ordered Damages Model. Specifically, defendant respectfully submits that:

1. Pre-appointment attrition should be applied as a quarter of white passers were never appointed
2. Zero damages for people who passed and were never appointed
3. Zero post-quit damages for claimants who terminated voluntarily
4. Zero damages for claimants who received a DBF or DQS code indicating a failure to satisfy a requirement after passing LAST
5. Zero damages for claimants who received "DBU - TERMINATION FOR "U" RATING" before the but-for appointment date
6. Zero damages for claimants who became a permanent teacher without a stall at step 4A

7. Zero damages for claimants who have a counterfactual appointment date more than six months after actually passing the LAST provided that the six month period includes an Aug/Sep hiring cycle. At a minimum this person's counterfactual appointment date should be delayed by their actual time to appointment
8. Zero post-termination damages for those terminated for cause
9. Actual education levels should be used for the period a claimant was with DoE; probabilities for periods after departure
10. Claimants who only held per diem positions receive zero damages
11. Post-appointment attrition should be applied to periods when claimants held per diem positions
12. Claimants for whom we have no SSA earnings data should have damages calculated using CPS-derived alternate earnings
13. Claimants with minimal SSA earnings from a given point onward should have their damages cut off at that point
14. Claimants earning less than full-time minimum wage should be considered having failed to mitigate and should have alternate earnings imputed using CPS data
15. Claimants who chose a more lucrative alternate career (such as Guidance Counselor) should have damages evaluated over their entire career, not month-to-month. Otherwise a claimant could increase her damages by telling her employer to pay her nothing in year one and two times salary in year two.
16. Claimants who did not jump steps following appointment (failure to file paperwork) should have damages calculated based on the jump to which they were entitled had they filed paperwork
17. Longevity levels for claimants with continuous DoE service are presumptively correct
18. For claimants actually appointed, the counterfactual appointment date should be based on each claimant's actual time from pass to appointment.
19. Stalls at steps other than 4A should not increase damages
20. Zero damages for claimants who left regular substitute service in less than four years under "termination of regular substitute service" code if prior to 9/03

Although, as stated above, Defendant objects to many of the assumptions underlying the Court Ordered model, defendant does not seek a hearing as to these claimants

- 1. Mark Morse (Claim No. 1000561)**
- 2. Pamela Rutledge (Claim No. 1009904)**
- 3. Yolanda Negron (Claim No. 1004224)**
- 4. Yvette Talley (Claim No. 1010405)**

Iris Medina (Claim No. 1008707)

The Court approved model employs educational advancement assumption of 3.1 years from LAST failure to achieving a master's degree. Defendant supports use of actual education advancement dates where available. Defendant objects to efforts by plaintiffs to introduce irregularities in the award structure by vacillating between actual advancement for some claimants and the Court Ordered Model assumptions for others. If actual educational advancements are to be used for this claimant as is requested, then actual advancement should be employed for all claimants.

Denise Ebanks (Claim No. 1009575)

It appears that the Claimant failed to properly mitigate damages. Defendant seeks discovery and a hearing concerning claimant's mitigation efforts. Claimant later took a non-teaching guidance counselor position which soon thereafter resulted in higher pay than a teaching position.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of September 2003 to May 2005. Please also provide all supporting documentation.
3. Please identify all of the claimant's sources of income during the period of September 2003 to May 2005. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since September 2003. Please also provide all supporting documentation.
5. At any time from September 2003 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse or partner, that person's place

of residence and employers during the period. Please also provide all supporting documentation.

6. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2003? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.

Michelle Jennings (Claim No. 1004572)

It appears that Claimant failed to properly mitigate damages. Defendant seeks discovery and a hearing concerning claimant’s mitigation efforts.

Discovery Requested:

1. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant’s employers during the period of August 2002 to September 2014. Please also provide all supporting documentation.
3. Please identify all of the claimant’s sources of income during the period of August 2002 to September 2014. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since August 2002. Please also provide all supporting documentation.
5. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2002? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.

Janice Carter (Claim No. 1002788)

Defendant objects to the calculation of damages in part on grounds that claimant proposes that she be advanced to Salary Step to 8A upon appointment, despite the fact that advancement upon appointment was at the relevant period limited to not beyond Step 6A.

Cecilia Grant (Claim No. 1002621)

It appears that Claimant failed to properly mitigate. Defendant seeks discovery and a hearing concerning claimant's mitigation efforts.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of August 2002 to September 2012. Please also provide all supporting documentation.
3. Please identify all of the claimant's sources of income during the period of August 2002 to September 2012. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since August 2002. Please also provide all supporting documentation.
5. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2002? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
6. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since April 2009. Please also provide all supporting documentation.
7. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE between April 2009 and September 2012. Please also provide all supporting documentation.

Cheryl Jennings (Claim No. 1011508)

It appears that Claimant failed to properly mitigate damages. Defendant seeks discovery and a hearing concerning her mitigation efforts. Defendant also contends that as Claimant passed the LAST but was nonetheless not appointed, the failure to be appointed was not the result of the LAST and therefore she should not receive damages.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of September 2002 to the present. Please also provide all supporting documentation.
3. Please identify all of the claimant's sources of income during the period of September 2002 to the present. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since September 2002. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since August 2005. Please also provide all supporting documentation.
6. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE. Please also provide all supporting documentation.

Valerie Lamey (Claim No. 1006337)

It appears that Claimant failed to properly mitigate damages. Defendant seeks discovery and a hearing concerning claimant's mitigation efforts.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of July 2003 to the present. Please also provide all supporting documentation.
3. Please identify all of the claimant's sources of income during the period of July 2003 to the present. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since July 2003. Please also provide all supporting documentation.

5. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2003? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.

Lourdes Moreno-Disla (Claim No. 1011866)

Defendant objects, for the reasons stated in its December 9, 2015 letter to the Special Master, to the demand for front pay and seeks the discovery set out below to understand the claimant’s demand and defend against that demand. Defendant also objects to the claimant’s effort to have attrition removed from the calculations.

Discovery Requested:

1. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Copies of claimant’s Federal and State Income Tax returns from 2003 to 2015.
3. Please identify all of the claimant’s employers during the period of September 2000 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant’s sources of income during the period of September 2000 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since September 2000. Please also provide all supporting documentation.
6. At any time from September 2000 was claimant married or in a partnership? If the answer to this question is “yes”, please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
7. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2000? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
8. Please provide all documents including performance reviews concerning claimant’s employment at any educational institution or school including but not limited to Our Lady of Refuge, Readnet Charter School. Please also provide a release sufficient to obtain claimant’s employment records from any institution or school identified in response to this question.

Yesenia Pena (Claim No. 1009106)

Claimant passed the LAST in 2006 but never got appointed; claimant instead became and remained a “Teacher Attendance” (TA). Defendant also contends that as claimant passed the LAST but was nonetheless not appointed, the failure to be appointed was not the result of the LAST and therefore she should not receive damages. Further, claimant took five years after becoming a TA to get a master’s degree. Claimant should not be accorded the shorter period contemplated in the counterfactual model.

Discovery Requested:

1. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since September 2006. Please also provide all supporting documentation.
3. Please state claimant’s reason for taking a position as a Teacher Attendance as opposed to a full time teacher (e.g., classroom teacher, resource room teacher, etc...).
4. Please identify all efforts the claimant made to obtain employment since September 2003. Please also provide all supporting documentation.
5. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2003? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.

Sharon Seaborn (Claim No. 27)

Claimant was demoted from permanent position in 1995 prior to ever taking the LAST. Claimant passed the LAST in 2005 but was unable to get reappointed. Thus, failure to be reappointed is not LAST related. Even assuming damages, Claimant was a permanent teacher from at least 1987 who never obtained educational advancement prior to demotion or thereafter; claimant should therefore not be given further educational advancement in the model.

Discovery Requested:

1. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which

they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.

2. Please state all efforts made by claimant to obtain educational degrees beyond a bachelor's degree, as well as all certifications, licenses, or certificates. Please also provide the date these efforts were undertaken and the institutions from which the degree, certifications, licenses, or certificates were sought. Please also provide all supporting documentation.
3. Please identify all of the claimant's employers during the period of September 2005 to the present. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since September 2005. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE between 2005 and present. Please also provide all supporting documentation.
6. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE subsequent to passing the LAST. Please also provide all supporting documentation.

Sandra Sutton (Claim No. 1002476)

Defendant objects, for the reasons stated in its December 9, 2015 letter to the Special Master, to the demand for front pay and seek the discovery set out below to understand the claimant's demand and defend against that demand.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of November 2002 to the present. Please also provide all supporting documentation.
3. Please identify all of the claimant's sources of income during the period of November 2002 to the present. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment since September 2002. Please also provide all supporting documentation.

5. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2002? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
6. Please state claimant’s income from her current employer, the Brooklyn Public Library. In doing so please state the amount of straight time pay, overtime pay and any differential pay such as for weekend or after hours pay as well as any burnouses.
7. Identify all benefits claimant is receiving from her current employer, the Brooklyn Public Library.
8. Identify all benefits claimant anticipates receiving upon her retirement from her current employer the Brooklyn Public Library, including but not limited to pensions and medical benefits.
9. Why if claimant wanted to remain in the education field, and hence took a position with the Brooklyn Public Library, did claimant decide to leave her position with the BOE?

Denise Jenkins-Thompson (Claim No. 1007865)

Defendant objects, for the reasons stated in its December 9, 2015 letter to the Special Master, to the demand for front pay and seek the discovery set out below to understand the claimants demand and defend against that demand. Defendant also objects to the claimant’s effort to have attrition removed from the calculations. Further, Defendant contends that as claimant passed the LAST but was nonetheless not appointed, the failure to be appointed was not the result of the LAST and therefore she should not receive damages.

Discovery Requested:

1. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since 2004. Please also provide all supporting documentation.
3. Please identify all efforts the claimant made to obtain employment as a teacher with BOE since 2004. Please also provide all supporting documentation.

4. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school including but not limited to Amber Charter School and Broadway Communities ("BHC"). Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.
5. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE subsequent to July 2004. Please also provide all supporting documentation.

Dionicia Pena (Claim No. 1005381)

The Court approved model employs educational advancement assumption of 3.1 years from LAST failure to achieving a master's degree. Defendant supports use of actual education advancement dates where available. Defendant objects to efforts by plaintiffs to introduce irregularities in the award structure by vacillating between actual advancement for some claimants and the Court Ordered Model assumptions for others. If actual educational advancements are to be used for this claimant as is requested, then actual advancement should be employed for all claimants.

Jacqueline Payne (Claim No. 1000647)

The Court approved model employs educational advancement assumption of 3.1 years from LAST failure to achieving a master's degree. Defendant supports use of actual education advancement dates where available. Defendant objects to efforts by plaintiffs to introduce irregularities in the award structure by vacillating between actual advancement for some claimants and the Court Ordered Model assumptions for others. If actual educational advancements are to be used for this claimant as is requested, then actual advancement should be employed for all claimants. Further, Claimant passed the LAST in 2004 but took eight years to get appointed. This eight year lag should be used for her counterfactual appointment and damages adjusted accordingly.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. At any time from December 1998 to September 2012 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse(s) or

partner(s), that/those person(s) places of residence and employers during the period. Please also provide all supporting documentation.

3. Please identify all efforts the claimant made to obtain any employment from December 1998 to September 2012. Please also provide all supporting documentation.
4. Please identify any/all efforts the claimant made to obtain employment as a full time teacher with the BOE between June 2004 and September 2012. Please also provide all supporting documentation.
5. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE subsequent to June 2004 until 2012. Please also provide all supporting documentation.
6. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school including but not limited to Charter Schools and the Shield Institute; Chama Childhood Development; South Bronx job corps; York College; and Bell Afterschool. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.

Lisette Rosario (Claim No. 1002450)

The Court approved model employs educational advancement assumption of 3.1 years from LAST failure to achieving a master's degree. Defendant supports use of actual education advancement dates where available. Defendant objects to efforts by plaintiffs to introduce irregularities in the award structure by vacillating between actual advancement for some claimants and the Court Ordered Model assumptions for others. If actual educational advancements are to be used for this claimant as is requested, then actual advancement should be employed for all claimants.

Discovery Requested:

1. Please state claimants reason for ending her employment with the Saint Angela Merici School Archdiocese. Please also provide all supporting documentation.
2. Please identify all efforts the claimant made to obtain employment between June 2011 and March 2012. Please also provide all supporting documentation.

Luz Macias (Claim No. 1004176)

Defendant seeks information concerning claimant's assertion that she would have worked as a BOE teacher through the present despite her abandonment of the teaching profession. The Court

approved model employs educational advancement assumption of 3.1 years from LAST failure to achieving a master's degree. Defendant supports use of actual education advancement dates where available. Defendant objects to efforts by plaintiffs to introduce irregularities in the award structure by vacillating between actual advancement for some claimants and the Court Ordered Model assumptions for others. If actual educational advancements are to be used for this claimant as is requested, then actual advancement should be employed for all claimants. Defendant also objects to the claimant's effort to have attrition removed from the calculations.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. At any time from January 1999 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
3. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1999? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
4. Identify all benefits offered to teachers and supervisors in the Broadview Elementary School system where claimant was employed.
5. Identify all benefits offered to claimant as a civil service employee of the Broward County Library.
6. Please identify all efforts the claimant made to obtain any employment from June 1998 to 2005. Please also provide all supporting documentation.
7. Please provide all documents including performance reviews concerning claimant's employment at the Broadview Elementary School. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.

Sherry Young-Brown (Claim No. 1000632)

It appears that Claimant failed to properly mitigate. Defendant contends that as Claimant passed the LAST in 2005 but was nonetheless not appointed until 2015, the failure to be appointed was

not the result of the LAST and therefore she should not receive damages. Defendant further objects to the failure to apply attrition to this claimant. Claimant's absence from the BOE for a decade and a half is such as to not suggest certainty that absent failure of the LAST claimant would not have left the BOE.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all of the claimant's employers during the period of August 2001 through the present. Please also provide all supporting documentation.
3. Please identify all efforts the claimant made to obtain employment since August 2001. Please also provide all supporting documentation.
4. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE between 2005 and the present. Please also provide all supporting documentation.
5. Please identify all of the claimant's sources of income during the period of August 2001 through November 2001, June 2003 through August 2003, August 2005 through March 2007, August 2010 through September 2011, August 2014 through September 2014 and 2006 through 2009, and 2012. Please also provide all supporting documentation.
6. At any time from January 2001 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
7. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2001? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
8. Please provide all documents including performance reviews concerning claimant's employment.

Carmen Ruiz (Claim No. 1001155)

Claimant was a per diem substitute. As stated by the Court: "per diem substitutes can be part of the class if they establish that they intended to become, and would have become, permanent

teachers, but for failing the LAST-1.” Gulino v. Bd. of Educ., 2015 U.S. Dist. LEXIS 125979, *16, 2015 WL 5603020 (S.D.N.Y. Sept. 21, 2015). Defendant seeks the following discovery to investigate and defend against this assertion as to claimant.

Discovery Requested:

1. Please produce all material on which claimant intends to rely to demonstrate that she intended to become, and would have become a permanent teacher but for failing the LAST-1
2. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
3. Please identify all of the claimant’s employers during the period of September 1998 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant’s sources of income during the period of September 1998 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since September 1998. Please also provide all supporting documentation.
6. At any time from September 1998 was claimant married or in a partnership? If the answer to this question is “yes”, please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
7. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1998? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
8. Please provide all documents including performance reviews concerning claimant’s employment at any educational institution or school. Please also provide a release sufficient to obtain claimant’s employment records from any institution or school identified in response to this question.

Diane Pearson (Claim No. 1010882)

Defendant objects, for the reasons stated in its December 9, 2015 letter to the Special Master, to the demand for front pay and seek the discovery set out below to understand the claimants demand and defend against that demand. Defendant also objects to the claimant’s effort to have attrition removed from the calculations.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Copies of claimant's Federal and State Income Tax returns from 2003 to 2016.
3. Please identify all of the claimant's employers during the period of August 2003 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant's sources of income during the period of August 2003 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since August 2003. Please also provide all supporting documentation.
6. At any time from August 2003 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
7. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 2003? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
8. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.
9. Please provide copies of all tax returns, licenses, and articles of incorporation relating to the "daycare" facility claimant purports to have operated.
10. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since April 2015. Please also provide all supporting documentation.

Ella Robinson (Claim No. 1012549)

It appears that Claimant failed to properly mitigate. Defendant seeks discovery and a hearing concerning her mitigation efforts.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Copies of claimant's Federal and State Income Tax returns from 1999 to 2016.
3. Please identify all of the claimant's employers during the period of August 1999 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant's sources of income during the period of August 1999 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since August 1999. Please also provide all supporting documentation.
6. At any time from August 1999 was claimant married or in a partnership? If the answer to this question is "yes", please identify the spouse or partner, that person place of residence and employers during the period. Please also provide all supporting documentation.
7. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1999? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
8. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.
9. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since April 2015. Please also provide all supporting documentation.

Jane Lee (Claim No. 1000448)

Defendant objects, for the reasons stated in its December 9, 2015 letter to the Special Master, to the demand for front pay and seek the discovery set out below to understand the claimants demand and defend against that demand. Defendant also objects to the claimant's effort to have attrition removed from the calculations.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which

they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.

2. Copies of claimant's Federal and State Income Tax returns from 1999 to 2016.
3. Please identify all of the claimant's employers during the period of August 1999 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant's sources of income during the period of August 1999 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since August 1999. Please also provide all supporting documentation.
6. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1999? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
7. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.
8. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since April 2015. Please also provide all supporting documentation.

Perfecto Santana (Claim No. 1011894)

It appears that Claimant failed to properly mitigate. Defendant seeks discovery and a hearing concerning her mitigation efforts

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
2. Copies of claimant's Federal and State Income Tax returns from 1998 to 2016.
3. Please identify all of the claimant's employers during the period of August 1998 to the present. Please also provide all supporting documentation.

4. Please identify all of the claimant's sources of income during the period of August 1998 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since August 1998. Please also provide all supporting documentation.
6. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1998? If the answer to this question is "yes", please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
7. Please provide all documents including performance reviews concerning claimant's employment at any educational institution or school. Please also provide a release sufficient to obtain claimant's employment records from any institution or school identified in response to this question.
8. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since April 2015. Please also provide all supporting documentation.

Sheila Morris (Claim No. 1005498)

Defendant contends that as Claimant passed the LAST but was nonetheless not appointed, the failure to be appointed was not the result of the LAST and therefore she should not receive damages.

Discovery Requested:

1. Please identify all of claimant's educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them and the period in which they were in effect. If any such license or certification was terminated or revoked or lapsed, please state the date and reason for that occurrence. Please also provide all supporting documentation.
2. Please identify all efforts the claimant made to obtain employment as a full time teacher with the BOE since July 2005. Please also provide all supporting documentation.
3. Please state claimant's beliefs or understandings as to why she was not able to obtain employment as a full time teacher with the BOE. Please also provide all supporting documentation.

Silfida Guerrero (Claim No. 1004048)

Claimant was a per diem substitute. As stated by the Court: "per diem substitutes can be part of the class if they establish that they intended to become, and would have become, permanent

teachers, but for failing the LAST-1.” Gulino v. Bd. of Educ., 2015 U.S. Dist. LEXIS 125979, *16, 2015 WL 5603020 (S.D.N.Y. Sept. 21, 2015). Defendant seeks the following discovery to investigate and defend against this assertion as to claimant. It also appears that claimant did not properly mitigate.

Discovery Requested:

1. Please produce all material on which claimant intends to rely to demonstrate that she intended to become, and would have become a permanent teacher but for failing the LAST-1
2. Please identify all of claimant’s educational degrees, certifications, licenses, or certificates. Please also provide the date they were obtained, the institutions from which they were obtained, and the time period during which claimant sought to achieve them. Please also provide all supporting documentation.
3. Please identify all of the claimant’s employers during the period of September 1998 to the present. Please also provide all supporting documentation.
4. Please identify all of the claimant’s sources of income during the period of September 1998 to the present. Please also provide all supporting documentation.
5. Please identify all efforts the claimant made to obtain employment since September 1998. Please also provide all supporting documentation.
6. Has claimant been a primary care provider for any person, including a parent, child, spouse, partner, relative or friend since 1998? If the answer to this question is “yes”, please identify the state and city where claimant provided such care. Please also provide all supporting documentation.
7. Please provide all documents including performance reviews concerning claimant’s employment at any educational institution or school. Please also provide a release sufficient to obtain claimant’s employment records from any institution or school identified in response to this question.

We appreciate the Special Master’s attention to this matter.

Respectfully submitted,
/s/
William S.J. Fraenkel
Assistant Corporation Counsel

cc: Joshua S. Sohn, Esq.